

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

BARBARA WEBB,

Plaintiff,

1:12-cv-986-CL

TEMPORARY RESTRAINING ORDER

v.

BANK OF AMERICA N.A.
and RECONTRUST COMPANY, N.A.,

Defendants.

PANNER, District Judge.

Plaintiff seeks an ex parte temporary restraining order to enjoin the foreclosure sale of her house. Plaintiff alleges the house is scheduled for a foreclosure sale on June 11, 2012 and defendants have not complied with the legal requirements for a valid non-judicial foreclosure. Amongst other arguments, plaintiff alleges defendants failed to record all assignments of the trust deed in the county land records prior to initiating the foreclosure proceedings. In Oregon, a party initiating non-judicial foreclosure proceedings must record all assignments of the trust deed. ORS 86.735(1); Hooker v. Northwest Trustee Services, Inc., 2011 WL 2119103, *3 (D. Or. May 25) (internal citation omitted; In re McCoy, 2011 WL 477820, at *3-4 (Bankr. D.

Or. Feb. 7)); James v. Recontrust Co., et al, 2012 WL 653871, at *19-20 (D. Or. Feb. 29). Plaintiff alleges MERS is listed as the beneficiary on the deed of trust at issue.

Because of the alleged imminent foreclosure sale, and because the presence of MERS demonstrates a high probability that defendants did not comply with the recording requirements of the Oregon Trust Deed Act, I grant plaintiff's request for a temporary restraining order (#5). Defendants, and their officers, agents, etc..., and other persons in active concert or participation with defendants, who receive actual notice of this order, are restrained from conducting a foreclosure sale for the following property: 946 Pumpkin Ridge, Eagle Point, Oregon, from this day until Thursday, June 21, 2012, at 5:00 p.m. I will hold a hearing on whether to issue a preliminary injunction at 10:00 a.m. on June 21, 2012, in the Medford Courthouse.

IT IS SO ORDERED.

DATED this 8 day of June, 2012 at 2:00 clock P.M.



Owen M. Panner
United States District Judge